

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Bail Appl..No. 7450 of 2007()

CRIME NO. 120/07 OF KODANCHERY POLICE STATION

PETITIONERS/ACCUSED NOS.1 TO 3:

1. ELIYAS, S/O. DAVID,
KADUMKEERIYIL HOUSE, VELAMKODE P.O.,
KOZHIKODE DISTRICT.
2. DAVID,
KADUMKEERIYIL HOUSE, VELAMKODE P.O.,
KOZHIKODE DISTRICT.
3. SOSAMMA, W/O. DAVID,
KADUMKEERIYIL HOUSE, VELAMKODE P.O.,
KOZHIKODE DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT:

STATE OF KERALA THROUGH THE
SUB INSPECTOR OF POLICE, KODANCHERY POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 05/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 7450 of 2007

Dated this the 5th day of December, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations in a crime registered for offences punishable under Section 498A I.P.C. Matrimonial cruelty of the culpable variety is alleged against the petitioners. They are the husband and parents-in-law of the defacto complainant.

2. The learned Prosecutor submits that the petition in so far as it relates to petitioners 2 and 3 can straight away be dismissed as they have been dropped from the array of parties as there is no worthwhile material against them. So far as the first petitioner is concerned, the learned Prosecutor does not oppose the application for grant of anticipatory bail.

3. The marriage took place on 23.4.2007. There are disputes and disagreement between the spouses. Because of such disagreement fanciful allegations are now being raised, submits the learned counsel for the first petitioner.

4. I am satisfied, in the facts and circumstances of this case, that anticipatory bail can be granted to the first petitioner, subject to appropriate terms and conditions. In the absence of opposition, it is not necessary for me to advert to facts in any greater detail in this order.

4. In the result:

(1) This application is allowed in part.

(2) The application in so far as it relates to petitioners 2 and 3 is dismissed accepting the submissions of the learned Prosecutor.

(2) The following directions are issued under Section 438 Cr.P.C. in favour of the first petitioner.

(a) The first petitioner shall surrender before the learned Magistrate on 12.12.2007 at 11 a.m. The learned Magistrate shall release the first petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The first petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 13.12.2007 and 14.12.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the first petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 12.12.07 and the police shall be at liberty thereafter to arrest the first petitioner and deal with him in accordance with law.

(d) If the first petitioner were arrested prior to his surrender on 12.12.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 12.12.2007.

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(R. BASANT)
Judge

B.A.No. 7450 of 2007